

House File 623 - Introduced

HOUSE FILE 623

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 213)

(COMPANION TO SF479 BY

COMMITTEE ON WAYS AND MEANS)

A BILL FOR

- 1 An Act concerning the apportionment of certain gross receipts
- 2 of a broadcaster for purposes of Iowa income tax, and
- 3 including retroactive applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.33, subsection 2, paragraph a,
2 subparagraph (2), Code 2015, is amended by adding the following
3 new subparagraph division:

4 NEW SUBPARAGRAPH DIVISION. (0e) (i) Notwithstanding
5 subparagraph division (c), where income is derived by a
6 broadcaster from broadcasting, the part attributable to
7 business within the state shall be in the proportion that the
8 gross receipts from broadcasting derived from customers whose
9 commercial domicile is in this state bears to the total gross
10 receipts from broadcasting.

11 (ii) Notwithstanding subparagraph subdivision (i) or
12 subparagraph division (c), where income is derived by a
13 broadcaster from national or local political advertising that
14 is directed exclusively at one or more markets in this state,
15 all gross receipts from such advertising shall be attributable
16 to business within the state.

17 (iii) For purposes of this subparagraph division:

18 (A) "*Broadcaster*" means a taxpayer who is engaged in
19 the business of broadcasting. "*Broadcaster*" includes a
20 television network, a cable program network, and a television
21 distribution company. "*Broadcaster*" does not include a cable
22 system operator, a direct broadcast satellite system operator,
23 or a television or radio station licensed by the federal
24 communications commission.

25 (B) "*Broadcasting*" means the transmission of film
26 programming by an electronic or other signal conducted by
27 microwaves, wires, lines, coaxial cables, wave guides, fiber
28 optics, satellite transmissions, or through any other means of
29 communication directly or indirectly to viewers and listeners.

30 (C) "*Customer*" means a person who has a direct contractual
31 relationship with a broadcaster from whom the broadcaster
32 derives gross receipts. "*Customer*" includes but is not limited
33 to an advertiser or licensee.

34 (D) "*Gross receipts from broadcasting*" means gross receipts
35 of a broadcaster from transactions and activities in the

1 regular course of its business, including but not limited to
2 advertising, licensing, and distribution, but excluding gross
3 receipts from the sale of real property or tangible personal
4 property.

5 Sec. 2. Section 422.33, subsection 2, paragraph a,
6 subparagraph (2), subparagraph division (e), Code 2015, is
7 amended to read as follows:

8 (e) Where income consists of more than one class of income
9 as provided in subparagraph divisions (a) through ~~(d)~~ (0e)
10 of this subparagraph, it shall be reasonably apportioned by
11 the business activity ratio provided in rules adopted by the
12 director.

13 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
14 retroactively to January 1, 2015, for tax years beginning on
15 or after that date.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to the apportionment of income of a
20 broadcaster for purposes of Iowa corporate income tax.

21 A corporation doing business both within and without Iowa is
22 required to apportion its business income among Iowa and the
23 other states in which it does business. The amount of business
24 income apportioned to Iowa is generally in the same percentage
25 as the business's gross sales made within Iowa if the business
26 involves the manufacture or sale of goods and products, or in
27 the same percentage as the business's gross receipts earned
28 within Iowa if the business involves something other than the
29 manufacture or sale of goods and products.

30 Under current law pursuant to Iowa Administrative Code
31 701-54.7(5), a radio or television company doing business
32 within and without Iowa is required to apportion its business
33 income to Iowa in the same proportion that the Iowa population
34 served by its broadcasting bears to the total population
35 served by its broadcasting. The calculation is made using all

1 residents of the applicable broadcasting area, regardless of
2 whether or not the residents individually elect to receive the
3 broadcasts.

4 The bill specifies that when income is derived by a
5 broadcaster from broadcasting, the business income apportioned
6 to Iowa shall be in the same proportion that the broadcaster's
7 gross receipts from broadcasting derived from customers whose
8 commercial domicile is in Iowa bears to the broadcaster's
9 total gross receipts from broadcasting. However, where the
10 income derived by the broadcaster is from national or political
11 advertising directed exclusively at one or more markets in
12 the state, all gross receipts from such advertising shall be
13 apportioned to Iowa.

14 "Broadcaster" is defined in the bill as a taxpayer who
15 is engaged in the business of broadcasting. A broadcaster
16 includes a television network, a cable program network, and
17 a television distribution company. A broadcaster does not
18 include a cable system operator, a direct broadcast satellite
19 system operator, or a television or radio station licensed by
20 the federal communications commission.

21 "Broadcasting" is defined in the bill as the transmission of
22 film programming by an electronic or other signal conducted by
23 microwaves, wires, lines, coaxial cables, wave guides, fiber
24 optics, satellite transmissions, or through any other means of
25 communication directly or indirectly to viewers and listeners.

26 "Customer" is defined in the bill as a person who has a
27 direct contractual relationship with a broadcaster from whom
28 the broadcaster derives gross receipts.

29 By operation of law, the method of apportioning gross
30 receipts from broadcasting provided in the bill will also
31 apply for purposes of the individual income tax to a resident
32 individual who is an owner of a broadcaster organized for
33 federal tax purposes as an S corporation, and for a nonresident
34 individual who is an owner of a broadcaster organized for
35 federal tax purposes as an S corporation or a partnership.

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1 The bill applies retroactively to tax years beginning on or
2 after January 1, 2015.